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# Convention on the Elimination of All Forms of Discrimination against Women

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**Committee on the Elimination of Discrimination against Women**

## Consideration of reports submitted by States parties under article 18 of the Convention

### Combined third to fifth periodic reports of States parties due in 2012

## Malaysia*

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## Article 1

**Discrimination against women**

1. The principle of gender equality and non-discrimination against women, an essential conception of the Convention, continues to be observed in Malaysia by means of constitutional guarantees as articulated in the Federal Constitution, the supreme law of Malaysia. Article 8(2) of the Federal Constitution provides as follows:

> Except as expressly authorized by this Constitution, there shall be no discrimination against citizens on the ground only of religion, race, descent, place of birth or gender in any law or in the appointment to any office or employment under a public authority or in administration of any law relating to the acquisition, holding or disposition of property or the establishing or carrying on of any trade, business, profession, vocation or employment.

2. Although no express definition of "discrimination against women" is found in the Federal Constitution or in any legislation, the principle of gender equality and non-discrimination against women is clearly enshrined in the Federal Constitution. Malaysia has reflected on its obligations under this article and maintains that the existing article 8(2) of the Federal Constitution serves as an overriding framework which provides for necessary guarantee related to the issue of elimination of discrimination against women as envisaged by article 1 of the Convention. It sets the tone for all legislative and administrative measures in Malaysia to be in line with the requirements under article 1, which have been incorporated in the relevant laws. The fact that there is also no specific national legislation in Malaysia that provides for the said definition, does not bar the Government to continue with the implementation of various measures to give effect and to achieve the objectives of this core principle, which will be deliberated in more detail in article 2 and other relevant articles as well as in Appendix A of this Report[1]. Progressive implementations and measures to eliminate discrimination are being undertaken and are evident from the legislative, judicial and administrative measures taken by Malaysia to implement the principle of gender equality and non-discrimination against women in Malaysia.[2] These measures significantly illustrate the application and effect of article 8(2) of the Federal Constitution which are elaborated further throughout this Report. The Government recognizes and promotes the acceptance and understanding of equality of all persons under the law. Article 8(2) of the Federal Constitution confers additional protection on the citizens on certain matters whereby it forbids discrimination against citizens on the grounds of religion, race, descent, place of birth or gender in any law or in the appointment under a public authority or in the administration of any law relating to the acquisition, holding or disposition of property or the establishing or carrying on of any trade, business,

[1] Certain laws have been enacted or amended in order to eliminate discrimination against women, namely Domestic Violence Act 1994, The Islamic (Federal Territories) Act 2005, Income Tax Act 1967, Distribution Act 1958 (Act 300), Guardianship of Infants Act 1961, The Juvenile Court Act 1947, The Amendment to the Land (Group Settlement Areas) Act 1960, and The Pension Act 1980.

[2] Reference of the detail enactment and amendment of laws can be found in the previous report and the responses to the list of issues and questions for consideration of the combined report.

profession, vocation or employment except as expressly authorized by the Federal Constitution. Thus, the Government does not find any cogent reasons to review the Federal Constitution for the purpose of defining discrimination as provided under article 1 of CEDAW.

## Article 2

**Measures to eliminate discrimination**

3. Malaysia has taken the necessary progressive action towards the full realization of women's rights and elimination of discrimination in the country. Among the actions taken are the withdrawal of certain reservations to the Convention and amendments of the legislation.

**Reservations to the Convention**

4. Upon accession to the Convention on 5 July 1995, Malaysia made reservations through the following declaration:

> The Government of Malaysia declares that Malaysia's accession is subject to the understanding that the provisions of the Convention do not conflict with the provisions of the Islamic Syariah Law and the Federal Constitution of Malaysia. With regard thereto, further, the Government of Malaysia does not consider itself bound by the provisions of articles 2(f), 5(a), 7(b), 9 and 16 of the aforesaid Convention.

5. Following its commitment to implement the strategies and programmes under the Beijing Platform for Action in 1995, the Government subsequently withdrew its reservations to the articles 2(f), 9(1), 16(1)(b), 16(1)(d), 16(1)(e) and 16(1)(h) on 6 February 1998.

6. As a follow-through to the constructive dialogue with the CEDAW Committee in May 2006, efforts were intensified towards the possible withdrawal of the remaining reservations through consultations with the relevant government agencies, state governments, non-governmental organizations (NGOs) and other stakeholders. As a result of this, on 19 July 2010, the Government of Malaysia notified the Secretary-General of its withdrawal to reservation of articles 5(a), 7(b) and 16(2) of the Convention. With that, Malaysia now only reserves on articles 9(2), 16(1)(a), 16(1)(c), 16(1)(f), 16(1)(g) and 16(2).

**Legislative measures to eliminate discrimination**

7. In line with article 8(2) of the Federal Constitution, certain laws were reviewed to ensure the adherence to the principle of non-discrimination in gender equality. Malaysia notes that gender-based violence is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on the basis of equality with men and States parties should take appropriate and effective measures to overcome all forms of gender-based violence, ensure laws against family violence and abuse, rape, sexual assault and other gender-based violence, give adequate protection to all women, and respect their integrity and dignity. Also, specific preventive and punitive measures are necessary to overcome trafficking and

sexual exploitations.[3] In this regard, some of the legislations which had been enacted and amended by the Government in order to eliminate discrimination against women are as follows:

*The Penal Code*

8. The Penal Code was amended in 2006 to increase the penalties for offences relating to rape and incest and its implication in protecting the principle of non-discrimination.[4]

9. Apart from increasing penalties for offences relating to rape and incest, a new provision namely section 375A was inserted. This new provision makes it an offence for any man who, during the subsistence of a valid marriage, causes hurt or fear of death or hurt to his wife or any other person in order to have sexual intercourse with his wife. Any man who is found guilty of this offence shall be punished with imprisonment for a term which may extend to five years.

10. Although the term "marital rape" is not explicitly stipulated in the provision, it is clear that section 375A mainly intends to further strengthen legal protection for wives from being hurt by their husbands to have sexual intercourse. In this regard, apart from section 375A, there are other existing provisions in the Penal Code which can be resorted to by wives, depending on facts of the case. Among others, a husband can always be charged for an offence of causing injury in which the punishment may go as high as 20 years imprisonment. Such a punishment is generally similar to punishment for rape, and significantly higher than certain other countries that make specific provision for "marital rape".

11. Therefore, although the form of law on "marital rape" in Malaysia may be different from other jurisdiction, the above legal provisions prove that Malaysia, in substance, pays due attention to the issue of "marital rape" and is committed to provide sufficient protection for victims.

12. Section 376 (1) of the Penal Code provides that subject to subsections (2), (3) and (4), whoever commits rape shall be punished with imprisonment for a term which may extend to twenty years, and shall also be liable to whipping. Subsection (2) provides that those who commit rape on a woman under any of the circumstances as prescribed in paragraphs (a) to (g) shall be punished with imprisonment for a term of not less than five years and not more than thirty years and shall also be liable to whipping.

13. Section 376(3) of the Penal Code provides that whoever commits rape on a woman whose relationship to him is such that he is not permitted under the law, religion, custom or usage, to marry her, shall be punished with imprisonment for a term of not less than eight years and not more than thirty years, and shall also be punished with whipping of not less than ten strokes. Subsection (4) provides that whoever while committing or attempting to commit rape causes the death of the

[3] CEDAW Committee General Recommendation No. 19.

[4] Section 375 of the Penal Code defines rape as follows: A man is said to commit "rape" who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the following descriptions in subparagraphs (a) to (g) of the said section.

woman on whom the rape is committed or attempted shall be punished with death or imprisonment for a term of not less than fifteen years and not more than thirty years, and shall also be punished with whipping of not less than ten strokes.

14. In the year 2007, through the Penal Code (Amendment) Act 2004, the law governing the offences of rape under section 376 of the Penal Code, introduced two categories for the punishment of rape. For the first category, the punishment imposed for rape is imprisonment for a term which extends to 20 years and whipping. For the second category (aggravated rape), the punishment meted out for is imprisonment for a term not less than 5 years and not more than 30 years and whipping.

15. The law defining the offence of incest and its punishment has been inserted under the new section 376A and section 376B of the Penal Code. Section 376A provides that a person is said to commit incest if he or she has sexual intercourse with another person whose relationship to him or her is such that he or she is not permitted, under the law, religion, custom or usage applicable to him or her, to marry that other person.

*The Criminal Procedure Code in 2007 on search procedures*

16. The search procedure of a person under the Criminal Procedure Code (CPC) was amended in 2007 to elaborate on four types and conduct of body search namely pat down search, strip search, intimate search, and intrusive search. The schedule also highlighted different procedures that should be conducted on a man and woman. The amended search procedures under the CPC will ensure that the enforcement officers will be more vigilant on the procedure of conducting the search. At the same time, it will educate and create the awareness among the people of the importance to respect the dignity of women.

*The Criminal Procedure Code in 2012 on prohibiting sexual offenders from plea bargaining*

17. With effect from 1 June 2012, Malaysia implemented the plea bargaining concept for criminal cases; vide amendment to section 172A-G of the Criminal Procedure Code. This pre-trial process allows an accused charged with an offence and claims to be tried to apply for plea bargaining in the courts in which the offence is to be tried, by pleading guilty to the charge, and the courts are empowered to impose a lighter sentence in the said application.

18. That notwithstanding, the law specifically states that plea bargaining system does not apply in certain instances, including any sexual related offences and any offences committed against a child who is below twelve years of age.[5] This exemption ensures sexual offences against women such as rape would not be given lighter sentence due to plea bargaining by the accused. It may also be seen as a measure to prevent continual insecurity for victims of sexual related offences. If not for the prohibition, sexual offenders would have been allowed to take advantage of lesser charge or sentence and may be allowed to integrate into society quickly and perpetrate more crimes.

[5] Subsections 172D(3)(b)(iii) and 172D(3)(b)(iv) of Criminal Procedure Code.

*The Pensions Act 1980*

19. The Pensions Act was amended in 2002 to allow widows to continue receiving pensions even after they remarried, aiming to protect and ensure the well-being of widows and their children.

*Land (Group Settlement Areas) Act 1960 (Revised 1994)*

20. Land (Group Settlement Areas) Act 1960 (Revised 1994) which was amended in 2002, provides wives of settlers a joint stake in the land awarded to their husbands. Before that, only husbands were recognized as sole owners of the settlement.

*Immigration Regulations 1963*

21. The Immigration Regulations 1963 was amended and effective 15 March 2007. The Regulations allow foreign men married to Malaysian women to renew their social visit pass every five years as opposed to annually. Likewise, foreign women who are divorced or separated from their Malaysian husbands can apply for social visit pass on an annual basis beginning 1 September 2001 compared with the previous occasion in which they would lose their rights to apply for a social visit pass upon their divorce or separation from their Malaysian husbands.

*The Anti-Trafficking in Persons Act 2007*

22. The Anti-Trafficking in Persons Act 2007 was passed by the Parliament in May 2007 and was fully enforced since February 2008. Among others, the Act seeks to address the issue of human trafficking, especially women and children, prosecute the offenders and provide protection and shelter to the victims. The Act was amended and renamed Anti-Trafficking in Persons Act and Smuggling of Migrants Act, which among others, added a new component of smuggling of migrant offences.

*The Domestic Violence Act 1994*

23. The Domestic Violence Act 1994 (DVA) was enacted to curb the use of violence as an instrument to settle domestic disputes and as a platform for the victims (spouse, former spouse, child, incapacitated adult or any member of the family) to seek protection and justice. In December 2011, the DVA was amended to widen the definition of "domestic violence" to include emotional, mental and psychological forms of domestic violence and the usage of drugs or intoxicating substance on the victim without his/her consent. Therefore, the DVA protect victims not only from physical abuse but also from emotional, mental and psychological abuses.

*The Employment Act 1955*

24. The Employment Act 1955 which was amended and enforced with effect from 1 April 2012, with key improvements on the criminalization of sexual harassment in the workplace, which aims for the protection of women, as well as extending maternity leave benefits for all women employees. Sexual harassment complaints are defined broadly under the Act to encompass complaints by an employee against

another employee, by an employee against any employer, or by an employer against an employee. The Act imposes an obligation on the employer to inquire into any sexual harassment complaints in the prescribed manner unless the stipulated grounds of refusal are satisfied. Maternity leave benefits which are extended to all women employees regardless of their salary level, among others, provide an assurance that a female employee cannot be terminated during the period of maternity leave although the female employee fails to give notice of her maternity leave.

**Amendment to the Islamic Family Law**

25. Several provisions in the Islamic Family Law (Federal Territories) Act 1984 were amended to further safeguard the rights of women. For example, section 23 of the Act was amended to protect a woman whose husband contracts another marriage. The amended provision imposes a condition for the man who wishes to contract another marriage to obtain the court's written permission prior to the marriage. In addition, the new provision provides that the court shall have the power on the application by any party to the marriage to require a person to pay maintenance to his existing wife or wives, or to order the division between the parties of the marriage of any assets acquired by them during the marriage by their joint efforts, or the sale of any such assets and the division of the proceeds of the sale. In this regard, most of the states in Malaysia have taken action by amending the relevant provisions. The effort to accomplish uniformity of Syariah laws throughout the country is to support the Government initiative towards the advancement of woman. Syariah laws are purely state matters. Syariah laws or Islamic matters in Malaysia are governed in accordance with article 74 of the Federal Constitution which provides for the subject matter of Federal and State laws. In this regard, article 74(2) and List II (State List) of the Ninth Schedule of the Federal Constitution further stipulate matters that fall under States which are, among others, as follows:

> Except with respect to the Federal Territories of Kuala Lumpur, Labuan and Putrajaya, Islamic law and personal and family law of persons professing the religion of Islam, including the Islamic law relating to succession, testate and intestate, betrothal, marriage, divorce, dower, maintenance, adoption, legitimacy, guardianship, gifts, partitions and non-charitable trusts

26. In view of these constitutional provisions, it is prescribed that:

(a) Each State has exclusive jurisdiction and power to govern and legislate on Islamic matters in its own territory; and

(b) The Federal Government has jurisdiction and power to govern and legislate on Islamic matters within the Federal Territories.

27. Under the model laws, the relevant laws and procedures have guaranteed the rights of woman, among others, as follows:

*Administration of Islamic Law Act/Enactments*

28. The reciprocal action provision was introduced under the Administration of Islamic Law Enactments and Syariah Court Enactments/Ordinances to allow the

enforcement of warrants, summons, orders or judgments made in one state in other states in Malaysia. This new provision allows a woman to obtain their rights based on the judgement of Syariah court in any State, particularly in the case where the husband moves to other States. In this regard, the husband may not be omitted from their obligation in terms of maintenance and so forth as determined by the court. Hence, this provision guarantees the right of woman. Most of the states within Malaysia have amended their relevant Islamic laws to enforce to this reciprocal action provision.

*Syariah Court Evidence, Syariah Criminal Procedures and Syariah Court Civil Procedure*

29. The Syariah Court Evidence, Syariah Criminal Procedures and Syariah Court Civil Procedure which are uniform and applicable in different States have standardized the procedures in Syariah courts. Thus, the laws and procedures facilitate the Syariah court process so as to improve the service delivery to the public all over the country, particularly pertaining to the case involving woman in Syariah courts.[6]

## Article 3

### The development and advancement of women

30. Malaysia has undertaken the following measures in the economic, social, cultural and religious fields to create an enabling environment for the full development and advancement of women.

### Malaysia Development Plan

31. The issue of gender as a development focus was first raised in the Third Malaysia Plan (1976-1980), whereby the active participation of women in development and their contribution to the economy was encouraged. The subsequent five-year development plans continued to give greater prominence to gender issues. This effort is further sustained in the Tenth Malaysia Plan (2011-2015). The Plan that houses the aspirations of both the Government Transformation Programme and the New Economic Model to help the nation achieved high-income economy, inclusive and sustainable development highlights women participation as one of its main agenda.

32. Women's role in the national development is acknowledged in Thrust 4 of the Plan: Improving the standard and sustainability of quality of life. In this regard, the Government is committed to increase its efforts towards addressing issues confronting women to enable them to participate effectively in the economic and social development by outlining four key programmes in the 10th MP, namely increasing women's participation in the labour force, increasing the number of women in decision-making positions, improving provision of support for women in

[6] There is direct contribution by women during policy making process for example as a committee of the *Syarak* and Civil Law Technical Committee, members of State Islamic Religious Affairs Council, Syarie judges, Court Registrars, *Sulh* Offices, legal advisors, legal practitioners and drafters.

challenging circumstances such as widows, single mothers and eliminating all forms of discrimination against women.

**Mainstreaming gender in the national machinery**

33. Gender concerns are mainstreamed into the national development plan to ensure that comprehensive efforts are made towards the advancement of women. Under the Tenth Malaysia Plan (10MP, 2011-2015), a micro development plan for women is attributed under the initiative of empowering women to enhance their economic contribution.[7]

**Social development initiatives**

34. The Government provides an annual allocation to women's NGOs, state and parliamentary councils of women for the development of women and family to carry out their programmes and activities such as legal literacy, campaign on Violence against Women (VAW), skills trainings and capacity-building as well as gender-sensitization at grass-roots levels.

35. From 2001 to 2014, the Department of Women Development had allocated RM 44,361,246.76 which was disbursed to 821 NGOs for organizing various programmes, wherein approximately 349,285 participants had benefited from the programmes. The MWFCD has identified legal literacy as a priority area in its development of women and family programmes with the aim to increase women's knowledge and understanding of their rights under civil and Syariah laws.

36. Towards this end, the Department with the cooperation of NGOs conducted a series of legal literacy programmes nationwide. A total of 263 legal literacy programmes were conducted and attended by 39,880 participants from 2001-2014.

**Socioeconomic empowerment**

37. The Prime Minister identified 7 National Key Results Areas (NKRAs) under the Government Transformation Programme (GTP) namely fighting corruption, improving student outcomes, improving rural basic infrastructure, improving urban public transport, addressing cost of living, raising living standards of low-income households and reducing crime.

38. The Raising Living Standards of Low-Income Households NKRA is aimed to empower low-income households to improve their social standing and create more income opportunities. Besides defining and identifying the poor, the NKRA also aims to create a long-term system that helps create opportunities for the underprivileged. This will be done through creating job opportunities, increasing basic wage, finding business opportunities and providing welfare assistance.

39. Among the socioeconomic empowerment initiatives are the *IAZAM* Programme which is an income generating programme introduced by government

[7] The initiative incorporates the key programmes which focus on increasing women's participation in the labour force; increasing the number of women in key decision-making positions; improving provision of support for women in challenging circumstances such as widows, single mothers and those with lower incomes; and eliminating all forms of discrimination against women.

targeting on low-income households. The areas to be focused on are job placement, small and medium enterprises (SMEs), service provider and agriculture. Among the programmes are:

(a) *AZAM Niaga* (Business) which generates 24,000 business opportunities through training and microcredit facilities;

(b) *AZAM Khidmat* (Service Provider) which trains and equips 32,000 selected individuals to become actively self-employed;

(c) *AZAM Kerja* (Job Placement) which ensures 32,000 job placements by coordinating action plans with the Ministry of Human Resources; and

(d) *AZAM Tani* (Agriculture) which creates 32,000 income opportunities by coordinating action plans with the Ministry of Agriculture and Agro-Based Industry.

40. Other initiatives under the socioeconomic empowerment programme include:

*Intensive Skills Training for Single Mothers (I-KIT)*

41. A special project under the Ninth Malaysia Plan to provide entrepreneurial skills training and mentoring especially for single mothers to enable them to generate income for the family.

*Incubation Entrepreneurial Women (I-KeuNita)*

42. I-KeuNita which was introduced in 2010 offers intensive skills training for women in fields such as beauty therapy, cooking, sewing, handicraft, child-care and tourism. It also offers matching grants through AIM to the potential women entrepreneurs.

*AGRONITA*

43. AGRONITA is a pilot project of the Ministry of Women, Family and Community Development and Federal Agriculture Marketing Authority (FAMA) launched in August 2009. It and aims at promoting women to be involved in commercial agriculture such as jasmine, rock melon, pineapple, corn, etc. It also aims to increase income through small-scale agricultural activities.

*Women Entrepreneur Programme*

44. The programme comprised specialized training workshops for women entrepreneurs. The aim of this programme is to further develop these entrepreneurs to enable them to earn a net income of RM 3,500 (USD 1,129.03) per month or more for a consecutive period of 3 months by end December 2012.

45. To further complement the efforts to empower women economically, the purple DNA project was introduced in 2012 with the focus on single mothers, disabled persons, *Orang Asli* and residents of rehabilitation institutions. These groups are given skills and viable income generating activities to increase their income. The first stage of the DNA project produces handicrafts such as handbags and organic soaps which are marketed as corporate gifts and souvenirs.

## Article 4

### Acceleration of equality between men and women

46. Towards the implementation of the Beijing Platform for Action, Malaysia places great emphasis in accelerating the agenda of equality between men and women to fulfil its commitment.

### Incorporating gender responsive budgeting (GRB)

47. Since 2004, at the national planning and budget preparation level, the Government has incorporated the Gender Responsive Budgeting methodology into various treasury call circulars to provide the impetus for mainstreaming gender. Administrative circulars have also been issued to further strengthen the collection of sex-disaggregated data and gender analysis in all Ministries. These continuous efforts are an improvement of the government delivery system to shed more light on the differences between men and women, particularly in access to resources, opportunities and security. These initiatives are undertaken to ensure equitable opportunities for both men and women in the public expenditure. Advocacy activities on the importance of gender responsive budget to all levels of the government administration particularly the top management have also been continuous to maintain the level of understanding and appreciation in addressing the equality of men and women. These include the preparation of a manual of gender budgeting analysis in 2006 which is currently being updated to suit the new Outcome Based Budgeting System that has been introduced in 2012.

### Target 55 per cent women participation rate in the labour force by 2015

48. Under the 10th Malaysia Plan, the Government has incorporated a target of 55 per cent labour force participation rate (LFPR) of women by 2015. As of the year 2014, the LFPR was 53.6 per cent. The government has undertaken several pronged initiatives to support the women in the workforce throughout the country such as by providing better child care services, day-care services for the elderly and special day care centres for Persons with Disabilities, and introducing a minimum wage policy in 2012.

### Policy of at least 30 per cent participation of women at decision-making levels

49. The Government announced the Policy of At Least 30 Percent Women in Decision Making in the Public Sector in August 2004. The policy aims to reduce gender imbalance at the decision-making level[8] in the public sector. As at December 2014, 32.5 per cent of women had participated at the decision-making level as compared with only 18.8 per cent in the year 2004. The Government has

[8] Source: Department of Statistics (www.statistics.gov.my).

subsequently approved the Policy of at Least 30 Per Cent Women in Decision-Making Positions at All Levels in Corporate Sector by Year 2016, in 2011.[9]

50. In the corporate sector, the percentage of women appointed as Board of Directors in the Minister of Finance, Incorporated companies has slightly increased from 13 per cent in 2011 to 17 per cent in 2014.

51. The MWFCD through its agency, NAM Institute for The Empowerment of Women (NIEW) has designed the Women Directors' Programme to equip women with structured training that include technical and soft skills to prepare potential and qualified women leaders to fully understand their roles as board directors and to perform effectively through a structured curriculum. NIEW trained 974 women from 2012-2014.

52. NIEW has also designed the Women Directors Management System[10] (WDMS) to enable and support the Women Directors Programme Framework. It has three modules, namely Registry, Sourcing and Reporting. The Registry module contains profiles of women with potential board director qualifications. Registration is open to professional women in Malaysia who are interested to serve on boards of public-listed companies. The Sourcing module supports public-listed companies in the search and selection process for qualified women directors for their boards. These companies will be able to source for qualified women candidates by submitting their request through the system. The Reporting module provides management reports across the Registry and Sourcing modules. It has the capability to provide reports that will track the progress and achievement of the Key Performance Indicators of the Women Directors Programme. As of 31 December 2014, 1,080 qualified women have registered.

## Article 5

### Gender stereotyping

53. The Government is committed to ensure that family education incorporates gender perspective that values equal partnership between men and women in recognizing their rights and responsibilities within the home and in the education of their children. Among the programmes to strengthen the family institution are:

(a) **SMARTSTART courses**: For those intending to get married and the newlyweds, the National Population and Family Development Board (NPFDB) has conducted SMARTSTART which emphasizes equitable sharing of tasks and responsibilities within the family, especially between the husband and wife to eliminate stereotypes associated with traditional gender roles in the family and society. The SMARTSTART guidebook has also been published as reference;

[9] This policy is imposed on government-linked companies, public-listed companies, statutory bodies and financial institutions through the Malaysian Code of Corporate Governance under the Securities Commission which is the regulatory body. Companies are required to disclose policies and targets with respect to composition of women on their boards in their annual report. A transition period of 5 years has been given to companies to implement the policy. The evaluation will be conducted in the 3rd year (2014) to assess the implementation of the policy.

[10] http://www.wcdregistry.com/.

(b) **Gender-sensitization training programmes**: NPFDB also conducts training that focuses on gender and their roles as a family unit namely *Bahtera KASIH* (Preparation for Marriage and Family Enhancement), *Belaian KASIH* (Parenting of Young Children), *Mutiara KASIH* (Parenting of Adolescents), *Pancaran KASIH* (Fatherhood) and *Permata KASIH* (Adolescent Development);

(c) **Parenting@Work**: NPFDB conducts training programme to create awareness and provide skills and knowledge on parenting and stress management;

(d) **Siti Aisha**: An English book entitled Siti Aisha was published in 2008 to educate children on the principle of CEDAW. The book describes all the articles in the Convention in an animated way suitable for school children;

(e) **Communications and Multimedia Content Forum of Malaysia (CMCF)**.

54. The Government has established the Communications and Multimedia Content Forum of Malaysia (CMCF) to govern the media content by self-regulation in line with the Malaysian Communications and Multimedia Content Code. The Code articulates a need to avoid and overcome biased portrayal on the basis of gender that is contrary to societal discrimination. The governing principles of CMCF are in line with the Government's objectives of a national policy framework for the convergence industries, inter alia, that "women and men shall be portrayed with fair and equitable demographic diversity taking into account the civil status, race, ethno-cultural origin, physical appearance, background, religion, occupation, socioeconomic condition and leisure activities, while actively pursuing a wide range of interests".

## Article 6

**Suppression of trafficking and exploitation of women**

55. Malaysia introduced the Anti-Trafficking in Persons Act 2007 (ATIP 2007) which came into force on 28 February 2008. Malaysia is a party to the Protocol to Prevent, Suppress and Punish Trafficking in Person, Especially Women and Children (TIP Protocol) which came into effect for Malaysia on 28 March 2009. Further amendments was made to the ATIP 2007 in 2010 to incorporate several provisions on smuggling of migrant offences and other smuggling of migrants-related and ancillary offences. The Act is now cited as the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 (ATIPSOM 2007). A Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants (the Council) was established under the Act and consists of several Committees. The Council is now known as the National Strategic Office to the Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants (NSO-MAPO).

56. The latest amendment passed on 6 July 2015, among others, enhances the protection aspect of trafficking victims, as follows:

(a) Victims of trafficking may be given permission to move freely and to work;

(b) Shelter homes do not need to be gazetted and only need to be declared by Minister;

(c) Members of non-governmental organization (NGO) can be appointed as protection officers without the need to be gazetted;

(d) The Minister may appoint any person as protection officer;

(e) The period of the Interim Protection Order (IPO) has been extended to a maximum period of 21 days; (before amendment was 14 days);

(f) The period of Protection Order for Malaysian or Permanent Resident is reduced to 3 months (before amendment was 2 years).

57. Malaysia acknowledges that the trafficking of humans is a global concern that must be addressed and that trafficked victims are often rescued or found in untenable living conditions with little regard for their basic human dignity. Therefore, ATIPSOM 2007 was promulgated as a special law to provide care and protection of trafficked victims.

58. The Government has established several places of refuge to place and protect trafficked victims. The trafficked victims are provided with accommodation, nutritious meals, recreational activities and counselling. The quality of management of the victims at the shelter home as well as the recovery programs at the shelter home have been constantly improved in order to provide a good living condition for the trafficked victims. This measure also includes getting active participation and assistance from the NGOs shelter homes.

59. Apart from providing care and protection for the trafficked victims, the Government has increased the effort in terms of prosecution and enforcement. The ATIPSOM 2007 has prescribed heavy custodial sentences that commensurate with those prescribed under the Penal Code such as rape. The offence of trafficking in an adult can carry a maximum imprisonment term of twenty years.

60. The enforcement agencies are working actively in combating trafficking especially in conducting raids at suspected places where women are being trafficked for sexual exploitation. On-going training on anti-trafficking laws for the enforcement officers are conducted regularly through cooperation with foreign government, international organizations and NGOs. This will ensure that the front-line officers such as the police, immigration and labour officials are able to identify trafficked victims, conduct proper investigation and provide assistance to the trafficked victims.

61. Although refugees and asylum seekers are not recognized under Malaysia's legislative framework, they are not distinguished under Act 670 if they are a trafficked person. "Trafficked person" is recognized under Act 670 to mean any person who is the victim or object of an act of trafficking in persons, which shall encompass women. Act 670 further explains "trafficking in persons" to mean all actions involved in acquiring or maintaining the labour or services of a person through coercion, and includes the act of recruiting, conveying, transferring, harbouring, providing or receiving a person for the purposes of the Act.

## Article 7

### Political and public life

62. The Government has outlined strategies under the National Plan of Action for the Advancement of Women regarding women's participation in politics. An assessment has been made on the disabling conditions that result in women's disproportionate representation in political and public life compared with men. In this regard, affirmative action to encourage the involvement of women in decision-making positions in the public and the private sectors is being undertaken as provided under article 4.

### Political life

63. The result of the 13th General Election on 5 May 2013 has shown that the representation of women in the Lower House of the Parliament was 23 out of 222 members. This accounts to 10.4 per cent of the members in the House of Representatives.

64. In the Cabinet, 3 out of 37 cabinet ministers and 7 out of 32 deputy ministers are women. Furthermore, women's representation at the State Legislative Assemblies improved marginally from 6.9 per cent in 2004 to 11.5 percent in 2014.

### Public life

65. Women's participation at top management positions in the public sector has increased from 15.3 per cent in 2001 to 32.5 per cent in 2014. As for women's participation at professional/management level, there was an increase to 60.9 per cent in 2014 as compared to 64.0 per cent in 2001.

### Scholarships for career advancement in the public sector

66. Malaysia maintains its policy as stated in the previous report that scholarships are provided for female civil servants to pursue their postgraduate qualifications which include Post Graduate Diploma, Masters and PhD, in both local and universities abroad. The Public Service Department is responsible in providing the scholarships.

## Article 8

### International representation and participation

### Women in the Malaysian Foreign Service

67. The number of women officers in the Malaysian Foreign Service has increased significantly over the years. In June 2012, 38 per cent (176 out of 467) of officers in the Malaysian Foreign Service were women as compared to 15.4 per cent (42 out of 273) in 1999. Out of this figure, 3.4 per cent (6 out of 176) hold positions at decision-making levels i.e. Permanent Representative to international organizations, Ambassadors, High Commissioners and Heads of Mission. Table 8.1 indicates the distribution of men and women officers in the Malaysian Foreign Service in 1999 and 2011.

**Participation in international organizations**

68. The participation of Malaysian women in international organizations such as the United Nations generally falls into three categories or levels, i.e. the professional, management and support staff. Table 8.2 indicates the number of Malaysian women attached to various international organizations and their respective positions in 2004 and 2009.

## Article 9

**Nationality and citizenship**

69. All men and women are accorded equal right to citizenship under the Federal Constitution. Article 14(1)(b) and Part II of the Second Schedule of the Federal Constitution provide for citizenship by operation of law for every person born outside Malaysia whose father is at the time of the birth a citizen of Malaysia.

70. A Malaysian woman can apply for her child to be registered as a citizen under article 15(2) of the Federal Constitution. In this regard, the Government has enhanced the implementation of article 15(2) by way of an interim administrative procedure that was implemented on 1 June 2010 and applies to children born overseas after 1 January 2010 to Malaysian women who are married to foreigners. Applications can be made by the Malaysian woman at the respective Malaysian Consulate within a year from the date of the child's birth. This administrative procedure further reinforces equal rights of women in determining the citizenship status of children.

## Article 10

**Education**

71. The Government continues measures which aim to increase accessibility and participation in education and training, especially for the low income groups and rural communities.

**Malaysia Education Blueprint 2013-2025**

72. The Malaysia Education Blueprint 2013-2025 is a long-term plan aims to properly address the needs of all Malaysians to prepare the nation to be internationally comparable, in its pursuit to increase public and parental expectations of the education policy developed.

73. Equally important objective of the system is to ensure that student outcomes are equitable. This remains a challenge for Malaysia. States with a higher proportion of rural schools, like Sabah and Sarawak, on average, perform poorer than states with less rural schools. Reaching out to children in remote areas and those in the marginalized groups is another last mile challenge which Malaysia is seriously looking into.

74. Efforts to reduce education gaps between rural and urban areas are ongoing. Rural-academic achievement gap has narrowed from 2012 to 2013 at 11 per cent for UPSR and 10 per cent for SPM.

75. The achievement gap between National and National-type primary schools is also closing. The difference between National schools or *Sekolah Kebangsaan* (SK) and National-type Chinese schools or *Sekolah Jenis Kebangsaan (Cina)* (SJK(C)) is insignificant. Over the past 5 years, National-type Tamil schools or *Sekolah Jenis Kebangsaan (Tamil)* (SJK(T)s) have more than halved the gap between themselves and both SJK(C)s and SKs, are now less than 4 percentage points behind.

76. In contrast, the gender gap is both significant and increasing, having widened over the last five years. Girls consistently outperform boys at every level; the gap in performance is already evident at UPSR level and increases over a student's lifetime up to university level, where females comprise approximately 70 per cent of the cohort. While this phenomenon is not unique to Malaysia, it does require attention to ensure that the country does not have a cohort of "lost boys" who either leave school early or with low attainment levels.

**Literacy rate**

77. A good indicator of the progress of human development is the literacy rate. Literacy rate refers to population aged 15 years and above who have been to school that is, those currently schooling and have completed schooling. Literacy rate in 1990 for males was 91.5 per cent compared with 96.4 per cent in 2014 while literacy rate for females was 78.5 per cent in 1990 compared with 92.9 per cent in 2014 as per Table 10.1.

**Gender stratification**

78. The Primary School Standard Curriculum (KSSR) places emphasis on the basic skills that include reading, writing and arithmetic (3Rs), while the Secondary School Integrated Curriculum (KBSM) is structured to ensure the continuity of the KSSR in secondary schools. The Secondary School Standard Curriculum will be introduced in 2017 to replace the KBSM.

79. Enrolment figures for the year 2001 to 2014 in Table 10.2 show that there was no apparent disadvantage faced by girls at all levels of the 11 years of basic education. In fact, the figures indicate that female students stayed in schools longer than male students. Table 10.2 also shows that the enrolment of girls and boys in primary schools has increased. Enrolment for girls in 2001 was 1,419,156. However there was a decrease in the enrolment of girls in 2014 to 1,316,856. The enrolment for boys in the same period has increased from 1,511,580 in 2001 to 1,436,147 in 2014.

80. Enrolment for male and female students at the secondary level, on the other hand, showed an increment during the period 2001-2014 as shown in Table 10.3. For the male students, the enrolment increased from 1,056,961 in 2001 to 1,197,583 in 2014. For female students, it increased from 1,072,803 in 2001 to 1,190,150 in 2014. However, the participation rate of female students at the secondary level is far higher than that of male students. Female participation rate during the period was

between 89.33 per cent and 93.04 per cent while the male participation rate was between 82.59 per cent and 87.17 per cent.

81. Education in Malaysia is provided by public and private sectors and movement of children from public schools to private schools or religious institution and vice versa is a common scenario. Thus it has to be noted that such movement from one system to another does not fully reflect dropouts.

82. Table 10.4 shows completion rate by cohort for students that complete Year 6 of primary education and Form 5 of secondary education in government schools. From the Table 10.4 the percentage of children who have reached Year 6 has improved from 96.89 per cent in 2000 to 99.18 per cent for the last cohort reached Year 6 in 2014. Completion rate for secondary shows a steady increase between 2000 and 2011 from 85.68 per cent to 91.95 per cent as indicated in Table 10.4. However there is a slight drop in 2012 to 2014 from 90.18 per cent to 89.98 per cent.

83. Similar to the enrolment rates, gender disparity has not been an issue for completion rate to Year 6 since 2000; the Gender Parity Index (GPI) for completion rate for Year 6 at primary level has been around 1. GPI for completion rate at secondary level shows a similar trend at an average of 1.03 between 2000 and 2014.

84. Table 10.5 shows the transition rate from primary education to lower secondary education. Figure 10.5 shows an increase from 90.05 per cent to 97.29 per cent between 2000 and 2014, as a result of government's efforts in increasing access through a fee-free policy and generous education aids and packages extended to secondary education.

**Living skills options in lower secondary schools**

85. Within the National Curriculum, students in secondary schools are allowed to choose technical/commercial subjects and courses based on their interests and potential. All students, including girls, are aware of and take advantage of the options available. In lower secondary schools, under the Living Skills Subject, a student has the option to choose one of the three elective components namely, Manipulative Skills, Home Economics and Agriculture. However, in 2003, Commerce & Entrepreneurship Skills was also introduced as an elective to Form One students. In 2005, the first batch of these students took their Lower Secondary Assessment (PMR).

**Sex education**

86. Sex education topics at the secondary level have been taught since 1989 across the curriculum in subjects such as Health Education, Biology, Science, Pure Science, Moral Education, Islamic Education and Languages. The curriculum was then extended to primary school in 1994 and was placed under the Health Education subject which was taught twice per month.

87. The Health Education subject was renamed as the Family Health Education/Sex Education in 2003 and extended to pre-school levels. In 2005, MOE developed seven modules on the Family Health Education/Sex Education for teachers to use as reference in the teaching of the subject.

88. The Ministry of Education carries out various programmes in schools under the Family Health Education/Sex Education in collaboration with other government and non-government agencies. The Family Health Education/Sex Education curriculum was reviewed in 2006 and is now known as the Reproductive Health and Social Education which includes topics on personal health and sexuality, personal emotion, family education, conflict management and drug abuse.

**Technical and vocational secondary schools**

89. Technical and vocational education is offered at the secondary level. At present, there are 90 technical schools. Technical and Vocational schools provide basic knowledge and skills in technical and vocational fields. These schools provide courses in civil engineering, electrical engineering, mechanical engineering, agriculture, commerce, home economics and technology.

90. Table 10.6 show the enrolment figures at Technical Schools from 2001 to 2014 according to sex. Female enrolment is lower than male in every year of the fourteen-year period as indicated in the table.

**Gender education at the Teacher Education Institute**

91. Gender education is included in the curriculum of two current first degree programmes offered at the Teacher Education Institute in Malaysia — the Preparatory Course for Bachelor of Education Programme (PPISMP) and the Bachelor of Education Programme (PISMP). Gender issues are being emphasized under the topics of:

(a) Individual Role and Responsibilities as a Member of Community under Social Studies; and

(b) Introduction to Social Studies and Sociology in the Social Studies for Primary Education course.

92. The admission into the twenty-seven teacher training colleges and the English Language Teaching Centre (ELTC) managed by MOE is open to both men and women. On 13 July 2005, the Cabinet approved the upgrading of Teacher Training Colleges to Institutes of Teacher Education (ITE). In efforts to increase the number of graduate teachers and to produce quality teachers, the role of the ITE has been upgraded from training of teachers at certificate and diploma levels to training of teachers at degree level. The ITE also plays an important role in providing in-service training. The data revealed that more women than men are interested in pursuing a teaching career.

93. Table 10.7 shows the enrolment figures according to gender at ITE from 2001 to 2011. Female enrolment is higher than male in every year as indicated in the table.

94. Table 10.8 shows the total number of lecturers and teachers in the teaching profession. At the Institute of Teacher Education, the number of male lecturers was higher than female lecturers during the 2001 to 2014 period. The number of female lecturers increased from 1,021 (35.9 per cent) in 2001 to 1,506 (45.3 per cent) in 2014.

95. On the other hand, female lecturers and teachers outnumbered male lecturers and teachers in polytechnics and schools. Table 10.8 also shows a high percentage of female lecturers and teachers in polytechnics, secondary and primary schools as compared with their male counterparts.

**Private sector learning and training centres**

96. The data in Table 10.9 shows the number of private sector learning and training centres from 2001 to 2011. The table details the kind of training provided by these centres, as well as the number of students and teachers. These centres are open to all irrespective of age and sex. Some of the centres are run in the evenings to cater for working adults.

**Pre-school education**

97. Malaysia places great importance in ensuring the provision of education and care for all children. This concern is manifested through involvement of many sectors in the Early Child Care Education (ECCE) and the amount of allocation given to ECCE each year. The ECCE in Malaysia is broadly divided into two main age groups, which is 0-4 and 4-6 years old.

98. The MOE sets up preschools to give opportunity to children aged from 4 to 6 from low income families in the sub-urban, rural and remote areas. Classes are built annexed to the public primary school buildings. Beginning January 2003, all preschools, public and private, are required to follow the National Preschool Curriculum Standards. This is to ensure quality of contents of preschool education.

99. The Community Development Department (KEMAS) pre-schools were set up by the Department of Community Development under the Ministry of Rural and Regional Development (MRRD) to provide education to children aged from 4 to 6 of low income families in the sub-urban, rural and remote areas. KEMAS pre-schools uses the National Preschool Curriculum Standards beginning 2003. These pre-schools focus on developing basic reading, writing and arithmetic (3R) besides developing individual potentials.

100. The PERPADUAN pre-school was first set up in 1976 beginning with 25 classes. The pre-schools are set up in urban and sub-urban areas specifically in areas covered by *Skim Rukun Tetangga*, a friendly neighbourhood watch scheme. The aim of these pre-schools are to instil unity from an early age, nurture the spirit of patriotism as well as teaching children to live harmoniously in a multi-racial community.

101. The private sector established pre-schools to complement public initiatives. Children attending private preschools are between 4 and 6 years old. The medium of instruction in private preschools can be either in the national language, Chinese, Tamil and/or English. The curriculum emphasizes communication skills, social skills and other skills to prepare them for primary (formal) education.

102. Table 10.10 shows the enrolment in public and private pre-schools in Malaysia from 2001 to 2014 by sex. The table shows the numbers of girl pre-schoolers are always higher than that of boys. This is seen throughout the eleven-year period.

**Sports and physical education**

103. Female students are encouraged and given equal opportunities as male students to participate in sports and physical education. The involvement of female athletes in various high performance games during the Malaysian Schools Sports Council (MSSM) meets for the past five years was almost equal to that of their male counterparts.

**Textbook on Loan Scheme (TLS)**

104. Textbooks play a vital role in eradicating discrimination and stereotyping of women by promoting positive portrayals of women. The Textbook Division of the Ministry of Education has drawn up guidelines to writers and publishers, emphasizing, in particular, the need to avoid issues related to the discrimination of women. The division ensures that the content, presentation of materials and graphics in textbooks are not gender biased. The panel of evaluation are selected among teachers with a minimum of five years teaching experience.

105. The texts, passages and activities in school textbooks take into consideration the interests of both genders. The presentation of materials in the textbooks has equal portrayals of both sexes. Graphic presentations, which play a functional role in helping to clarify the content of the textbook, portray women in active and dynamic roles in society such as doctors, engineers, lawyers and scientists not only the stereotype role of a housewife, teacher or nurse.

## Article 11

**Employment**

106. The Government continues to take appropriate measures to ensure that women and men enjoy equal right to work and employment. Statistics have shown that the number of women employed has increased from 3.3 million in 2001 to 4.6 million in 2011. In terms of the share to total employment, female employment increased from 34.0 per cent to 36.6 per cent during the same period. To fully utilize the resources and potential of women in employment, the Government has set a target to increase the participation of women in the labour force to 55 per cent in 2015 as stated in the 10th Malaysia Plan (2011-2015).

107. Among the measures that have been undertaken by the Government are:

(a) The enactment of the National Wages Consultative Council Act 2011 [Act 732] which came into force on 23 September 2011. Under Act 732, a Minimum Wages Order was made on 16 July 2012. The Minimum Wages Order 2012 then was reviewed and the Government agreed to increase the minimum wages from RM900 monthly in Peninsular Malaysia to RM1,000 monthly, and from RM800 monthly in Sabah, Sarawak and Federal Territory of Labuan to RM920 monthly. The new rate above is set to take effect on 1 July 2016;

(b) The enactment of the Employment (Part-Time Employees) Regulations 2010 which came into force on 1 October 2010 to encourage more women, particularly housewives, to enter into the labour force;

(c) The provision of incentives to encourage the establishment of child care centres at the work place as well as in the community to provide affordable and quality child care for children between the ages of 0 to 4 years;

(d) The extension of maternity leave in the public and private sectors where the Government has granted self-determined fully paid maternity leave from 60 days up to 90 days (not more than 300 days throughout the service tenure) for female civil servants. For the private sector, local and foreign banks have extended fully paid maternity leave from 60 days to 90 days effective from 10 August 2010;

(e) The promotion of equal sharing of domestic and family responsibilities between women and men through the implementation of the Parenting@work programme. This programme aims to promote parenting knowledge and skills especially to working couples;

(f) The inclusion of a Chapter on sexual harassment at the workplace in the reviewed Employment Act 1955 in 2012. Awareness programmes on sexual harassment in the workplace has also been conducted annually in 15 states involving 100 participants per state;

(e) Special economic empowerment programmes for women have been introduced to increase the level of women's participation in the economy. These programmes include Intensive Skills Training for Single Mothers (I-KIT), Incubation Entrepreneurial Women (I-KEUNITA) and Women Entrepreneurs Programme under National Key Result Area (NKRA) — Low Income Household (LIH). I-KIT aims to eradicate poverty among single mothers. Meanwhile, I-KEUNITA offers intensive courses to all women in various fields i.e. beauty therapy, cooking, sewing, handicraft, child care and tourism. Both I-KIT and I-KEUNITA have trained 11,726 women entrepreneurs from 2008-2014;

(f) The introduction of the Women Entrepreneurs Programme under the National Key Result Area (NKRA) — Low Income Household (LIH) targeted to generate 4000 women entrepreneurs by 31st December 2012. Women entrepreneurs are defined as those with a net income of RM3500 (USD1133) per month or more (for a consecutive period of 3 months) and they venture into various fields namely agriculture, services, fisheries, manufacturing, farming and business. The programme was continued after it successfully trained 4,300 women by the end of 2012. As of December 2014, the number of successful women entrepreneurs which government managed to generate is 6,300; and

(g) The Single Mothers Special Scheme (*Skim Khas Ibu Tunggal* or SKIT) is a sub-programme of the Integrated Urban Community Development Programme (*Program Pembangunan Masyarakat Bersepadu* — PPMBB). PPMBB aims to provide additional opportunities to the targeted groups in the urban areas to increase their academic achievements, to organize activities that can increase their income and provide job opportunities to improve the quality of life. SKIT is a special programme for single mothers in the urban areas that financially assist them to increase their income thus improving their quality of life.

**Protection for female workers**

108. Section 69 of the Employment Act 1955 provides for workers' claim and labour cases that can be filed by local and foreign workers with regards to their employment. In addition thereto, the Workmen's Compensation Act 1952 compensates foreign workers in the event of accidents which occur in the course of employment.

109. *Talian* NUR15999 which was introduced in 2007, is a helpline for the public to lodge complaints on issues relating to the target group of the MWFCD. The helpline has been extended and is now also an avenue for foreign domestic workers to lodge complaint about exploitation by irresponsible employers and employment agencies.

110. Another significant measure taken by the Government in ensuring a better protection of the foreign domestic workers was the signing of the Protocol Amending the 2006 Memorandum of Understanding on the Recruitment and Placement of Indonesian Domestic Workers in Malaysia on 30 May 2011. The said Protocol, amongst others, accords better working conditions to the Indonesian domestic workers, mostly female, by allowing them to keep their own passports; introducing the requirement for bank accounts for the payment of domestic workers' monthly salary; and granting of a weekly rest.

111. In a landmark decision of *Noorfadilla bt Ahmad Saikin v Chayed bin Basirun & Ors [2012] 1 MLJ 832*, the High Court had decided that the Defendants' action in refusing Noorfadilla binti Ahmad Saikin (the Plaintiff) from being employed for the post of an untrained relief teacher because she was pregnant constituted a violation of article 8(2) of the Federal Constitution. The Court referred to CEDAW in clarifying the term "equality" and gender discrimination under article 8(2) of the Federal Constitution. The High Court referred to article ! of CEDAW on the definition of "discrimination against women" and article 11(1)(b) of CEDAW which provides that State Parties shall take all appropriate measure to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular the right to the same employment opportunity, including the application of the same criteria for selection in matters of employment. The High Court also referred to article 11(2)(a) of CEDAW which provides that State Parties shall take appropriate measure to prohibit, subject to the imposition of sanctions, dismissal on the grounds, inter alia, of pregnancy.

112. It is pertinent to note that the legal position celebrated by the Court in Malaysia in 2012 was that CEDAW had the force of law and was binding on Malaysia. The Court had referred to Malaysia's obligation under CEDAW in defining equality and gender discrimination under article 8(2) of the Federal Constitution. The position was nonetheless altered in 2014 where the Court of Appeal in the case of *AirAsia Bhd v Rafizah Shima bt Mohamed Aris [2014] 5 MLJ* held that CEDAW did not have the force of law in Malaysia because the convention was not enacted into any Malaysian legislation. The Court of Appeal also ruled that without express incorporation into domestic law by an act of Parliament following ratification of CEDAW, the provisions of the international obligations in CEDAW did not have any binding effect.

113. The Judge also followed the decision of the Federal Court in the case of *Beatrice Fernandez v. Sistem Penerbangan Malaysia & Anor [2005] 2 CLJ 713* that, "to invoke article 8 of the Federal Constitution, the applicant must show that some law or action of the Executive discriminates against her so as to controvert her rights under the said article. Constitutional law, as a branch of public law, deals with contravention of individual rights by the Legislative or the Executive or its agencies..." The Defendants are public authorities and therefore agents of the Executive and when the Defendants revoked and withdrew the Plaintiff's Placement Memo because she was pregnant constitute contravention of article 8(2) of the Federal Constitution by the Executive and the requirement of Beatrice's case has been fulfilled. The Judge also pointed out that the Court has a role to promote the observance of human rights in Malaysia and thus a declaration that the Defendants violated article 8(2) of the Federal Constitution was made accordingly without costs as the case involved public interest.

114. Other judicial recognition in respect of sexual harassment against women can be seen in the High Court case of *Mohd Ridzwan bin Abdul Razak v. Asmah binti Hj. Mohd Nor [Civil Litigation No. 23NCVC-102-12/2011]* Kuala Lumpur High Court. In this case the court dismissed a claim for declaratory relief that the Plaintiff was not guilty of committing sexual harassment against the Defendant and awarded the Defendant in general damages as well as aggravated and exemplary damages for her counterclaim. This case did not mention any CEDAW provisions but it recognized elimination of discrimination towards women where the Judge in her judgement at page 32 went on to warn that a strong message should be sent to other persons who are in the position of superiors in the Plaintiff's position not to commit verbal sexual harassment without fear of repercussions.

## Article 12

### Equality in access to health care

115. The Government is committed to ensure that health-care services are affordable and accessible without compromising the quality of service. Life expectancy for both Malaysian men and women has increased over the years. In 2000, the life expectancy for men was 70 years and for women 74.7 years. In 2014, the life expectancy had risen to 72.5 years for men and 77.2 years for women.

### Maternal mortality

116. Maternal mortality ratio in Malaysia has declined from more than 40 per 100,000 live births in 1991 to 25.2 per 100,000 live births in 2013 (Department of Statistic Malaysia). Among the factors that contributed to the reduction of the maternal mortality ratio are greater accesses to professional care during pregnancies, childbirth and postnatal care, increasing access to quality family planning services and information, as well as the full implementation of the Confidential Enquiries into Maternal Deaths (CEMD) which started in 1991. The antenatal coverage at first visit increased from 78.1 per cent in 1990 to 98.03 per cent in 2013. The average number of antenatal visits by a pregnant mother to public and private health facilities increased from 6.6 in 1990 to 9.98 in 2013. Tetanus Toxoid immunization coverage for antenatal mothers in prevention of tetanus

neonatorum showed slight improvement from 81.7 per cent in 1990 to 89.64 per cent in 2013. Childbirth conducted by trained personnel has increased from 92.8 per cent in 1990 to 98.8 per cent in 2013. Postnatal coverage also improved from 67.0 per cent in 1990 to 98.8 per cent in 2012 (Annual Reports, MOH). The adolescent birth rate (15-19 years) reduced from 28 per 1,000 women in 1991 to 13 per 1,000 women in 2013.

117. The Prevention of Mother to Child Transmission (PMTCT) program was implemented in 1998 in all government health facilities. The government is committed to eliminate vertical HIV transmission by 2015 through the provision of quality, comprehensive national PMTCT services, which is in line with WHO recommendation. The four pronged strategies are to reach pregnant women, their partners and their infants including most at risk populations. Public health facilities cover approximately 75 per cent of the total pregnant women, and pregnant HIV women from the private sectors are also referred to the government hospitals. The coverage of PMTCT intervention in government health facilities has improved from 49.7 per cent in 1998 to almost 100 per cent in 2014 with 98.7 per cent of children born to HIV positive mothers are born uninfected.

**HIV**

118. Retrospectively, the national response to HIV started as far back in 1985. HIV, AIDS and death related to HIV/AIDS was added to the list of notifiable diseases under the Prevention and Control of Infectious Diseases Act 1988. Raising awareness and knowledge on HIV/AIDS has been the focus of MOH since the formulation of Plan of Action in 1988. The first National Strategic Plan (NSP) on HIV/AIDS was developed in 2000. In 2005, the NSP was reviewed and a 5 years plan NSP (2006-2010) for HIV responses was endorsed and implemented. The current NSP (2011-2015) emphasizes an integrated and comprehensive approach addressing the needs of prevention, treatment, care and support.

119. By the end of 2014, Malaysia had a cumulative figure of 105,189 HIV, 21,394 AIDS cases and 17,096 deaths related to HIV/AIDS, thus giving reported people living with HIV (PLHIV) of 88,093 cases. The annual number of newly reported HIV cases has been on a steady decline from a peak of 6,978 in 2002 to 3,517 in 2014. Similarly, there has been a decline in the number of AIDS — related deaths and this is directly attributed to the introduction of more affordable and accessible first and second line antiretroviral (ARV) treatment. HIV in Malaysia is predominantly male as they constitute 89 per cent of cumulative HIV cases of whom majority are people with injecting drug use (PWID). However, the trend of infection by sex has changed with increasingly female acquiring infection with male/female ratio decreasing 9.6 in 2000 to 4.5 in 2010 and to 4.0 in 2014. In the earlier phase of the pandemic, PWID was the driven factor and the trend has eventually changed to sexual transmission with PWID/sexual transmission ratio of 3.9 in 2000 to 1 in 2010 and to 0.2 in 2014.

120. HIV prevalence was found to be around 0.4 per cent. Currently, all government health facilities (1,039 health clinics and 141 hospitals inclusive of non-MOH hospitals) are providing free HIV screening facilities. HIV screening includes mandatory HIV screening for all donated blood, blood products and organs; routine HIV screening of inmates in drug rehabilitation centres and prisons;

HIV screening among TB and STI cases, clients of harm reduction programme and contacts of cases; HIV screening for premarital couples; an opt-out antenatal screening and voluntary HIV screening and voluntary HIV screening for those who wants to know their HIV status. In 2014, 36,283 people accessed facilities for voluntary HIV screening, out of which 85 per cent were males and 78 per cent were between the ages of 20 and 39. The main risk factors for HIV were intravenous drug users (IVDU) (57 per cent), followed by sexual transmission (32 per cent). Premarital HIV screening for Muslim couples was an initiative by the state religious department in one of the 14 states in Malaysia in 2001 and this later expanded to the other states by 2007. Since 2008, the screening is accessible to anyone, irrespective of their religion who wants to be screened for HIV. In 2011, a total of 267,997 men and women came for HIV premarital screening of which 100 (0.04 per cent) were confirmed to be HIV positive. In general, over the past five years, an average of 1.3 million HIV screening is conducted annually.

121. Total fertility rate in Malaysia has declined from 2.3 in 2006 to 2 in 2013. This decline is multi factorial among which are delay in marriage and use of contraceptives, as reflected by longer birth intervals and the decline in pregnancies among women in reproductive age groups. Preliminary Findings from the Fourth Malaysian Population and Family Survey (MPFS-4 conducted by National Population and Family Development Board in 2014 showed an overall of 57.5 per cent percent contraceptive prevalence rate (CPR) among married women.

**Reproductive health services**

122. Reproductive health services are made available through the Ministry of Health, either at primary or referral centres, the National Population and Family Development Board (NPFDB), the Federation of Reproductive Health Association Malaysia (FRHAM) and are supplemented by private medical practitioners. This is to ensure accessibility, affordability and full coverage of reproductive health services including rural area. MOH is the member of the ACCRH committee and utilizes the platforms to provide input on SRH related matters.

123. Steps are being taken to address the stagnant use of contraceptives in recent years which among others include the training of health-care providers and introducing effective family planning among high risk mothers. A special clinic to promote family planning known as *Nur Sejahtera* was initiated by the Ministry of Women, Family and Community Development in 2003. 58 clinics under the NPFDB have been established under this initiative throughout the country. The objective of the programme is to promote a better quality of life among families. The package of wellness programme includes glucose/cholesterol random checking, reproductive cancer screening, menopause, andropause, body mass index, bone scan, Pap smear and pelvis ultrasound. With the introduction of a mobile clinic in 2006, this wellness programme is being extended to the grassroots.

**Other communicable and non-communicable diseases**

124. Malaysia is classified as a country with an intermediate tuberculosis (TB) burden, that is, with an annual incidence of 20-100 reported cases per 100,000 population. Since the implementation of The National Tuberculosis Control Programme (NTBCP) in 1961, the number of reported TB cases had been

successfully reduced from 350 cases per 100,000 population to less than 100 per 100,000 in the 1980s. However, since then, reported TB cases have remained unchanged between 60 to 68 per 100,000 population. In 2014, there were 24,711 TB cases notified, reflecting a notification rate of 81 per 100,000 population, and 1,603 TB deaths or about 5.3 TB deaths per 100,000 population

125. Malaria still persists in rural and isolated areas in the States of Sabah and Sarawak. In 2014, a total of 3,923 malaria confirmed cases have been reported, decreased by almost 94 per cent from total cases in 1994 (58,958 cases). Malaysia's malaria incidence rate (IR) decreased from 3.0 per 1000 population in 1994 to 0.1 per 1000 population in 2014.

126. Malaysia has also achieved its MDG 6 target with reduction from 54.6 cases per 100,000 population (2000) to 10 cases per 100,000 population (2014), a reduction of 82 per cent. Malaysia is moving towards the elimination of locally acquired malaria by 2020. To achieve this goal, a National Strategic Plan for the Elimination of Malaria (NSPEM) (2011-2020) was developed and implemented in 2011. Medically confirmed malaria deaths have also decreased from 35 deaths (2000) to 9 deaths (2014).

127. The prevalence of non-communicable diseases (NCD) risk factors continues to rise in Malaysia. The 2011 National Health and Morbidity Survey (NHMS 2011) has shown that the prevalence of diabetes in Malaysia has increased 31.0 per cent in the space of just 5 years, from 11.6 per cent in 2006 to the current 15.2 per cent. The increase was mostly contributed by the increased proportion of "undiagnosed diabetes". The prevalence of "impaired fasting glucose" has also risen, from 4.2 per cent in 2006 to 4.9 per cent in 2011.

128. In 2014, there were 926,684 registered diabetics, where 637,272 patients were on "active" follow-up at 757 MOH facilities in Malaysia. The Ministry of Health is currently analyzing the impact of National Strategic Plan 2010-2014 and drafting the 2nd NSP NCD 2015-2020.

129. The prevalence for hypertension has increased slightly from 32.2 per cent in 2006 to the current 32.7 per cent. Similar to diabetes, about 60.6 per cent of total hypertensive were due to "undiagnosed hypertension". The prevalence of hypercholesterolemia has increased almost double in the space of five years, from 20.7 per cent in 2006 to the current prevalence of 32.6 per cent, an increase of 57.5 per cent. The proportion of "undiagnosed hypercholesterolemia" versus "known hypercholesterolemia" was even more staggering at 75.8 per cent, i.e. 3 out of 4 adults in Malaysia with high cholesterol were undiagnosed. The gaps between diagnosed versus undiagnosed for all three conditions were more pronounced in the younger age groups.

130. With the increasing prevalence and burden of NCD and NCD risk factors, the Ministry of Health has strengthened the NCD prevention and control programme in Malaysia by producing the "National Strategic Plan for Non-Communicable Diseases" (NSP-NCD) 2011-2015. NSP-NCD uses diabetes and obesity as the entry points.

131. Through the National Cancer Registry, MOH has collected and registered a total of 43,569 new cancer cases diagnosed in 1 January 2007 until 31 December

2010 of which 19,232 (44.4 per cent) were male and 24,246 (55.6 per cent) were female. The top five most frequent cancers in male are Colorectal (15.9 per cent), lung (15.7 per cent), Nasopharynx (9.6 per cent), Leukaemia (6.5 per cent) and Prostate (6.2 per cent). As for female, the most common cancer is Breast (32.8 per cent), followed by Colorectal (10.3 per cent), Cervix (8.6 per cent), Ovary (6.1 per cent) and Lung (5.4 per cent).

132. Cervical cancer screening services are provided in government health clinics, private clinics as well as FRHAM since 1967. The number of women who have had pap smear screening increased from 512,954 slides in 2012 to 531,680 in 2013 and 532,672 in 2014. The percentage of unsatisfactory slides remains low at 1.3 per cent in 2014. The overall positive detection rate increased from 0.84 per cent in 2013 to 0.97 per cent in 2014. To prevent cervical cancer, RM10 million was allocated in 2010 to MOH to introduce Human Papillomavirus (HPV) vaccination programme for girls aged 13 years old. In 2012, an additional budget was approved for the NPFDB to provide free HPV vaccine for 18 year old girls.

133. MOH started breast health awareness campaign from 1995 to encourage women to perform breast self-examination (BSE). In 2009, it emphasized clinical breast examination (CBE) as a modality for early detection of breast cancer among general women population. The BSE is continuously being promoted and recommended to empower women to take responsibility for their own health. The CBE among clients has increased from 20.9 per cent in 2013, to 25.0 per cent in 2014. There was 0.3 per cent abnormality detected and referred for further investigation.

134. Beginning 2012, the mammogram for high-risk women was conducted as a structured programme. Women who have factors that increase their risk of suffering from breast cancer are identified. These risk factors are based on the Clinical Practice Guideline, Management of Breast Cancer (2nd Edition). The health clinic serve as the entry point for high risk women before being referred for a mammogram examination at government hospitals (34 hospitals with facilities mammogram) or Mammogram Subsidy Program National Population and Family Development Board (NPFDB) or private hospital or non-governmental organizations at the option of the client. In 2014, the number of high risk women registered (new cases) was 18,899 and 17,902 (94.7 per cent) referred for mammogram screening and 15,497 (86.6 per cent) of them had undergone MMG and 42 (0.24 per cent) of the women confirmed cancer.

135. To help breast cancer survivors regain self-confidence and reconnect with society, an annual budget of RM4.3 million has been allocated to provide free prosthesis and post-mastectomy bra sets for women with a monthly household income of RM5, 000 and below.

136. The Government has also provided free mammogram screening for women with a monthly household income of RM5,000 and below, whilst a RM50 subsidy is given for women with a high household income. The screening is offered at 50 centres registered with NPFDB. The main objective of this programme is to encourage more women to come forward to undergo mammograms for early detection of breast cancer.

**Adolescent health services**

137. The Adolescent Health Programme was established by MOH in 1996 to provide comprehensives health services in all settings (clinics, hospitals, school and community). The services include promotive, preventive, curative, rehabilitative and referral services, where necessary. The health promotion activities include health education, information and counselling to empower the adolescents to make informed choices and decisions on all areas including sexual, reproductive health and right. Other activities are screening for early detection and prompt treatment of diseases reproductive and sexual-related illnesses. In 2014, a total of 372,773 adolescents 10-19 years have been screened for nutritional, physical, mental sexual health and risk behaviours. This accounts for 6.68 per cent of the total adolescent population screened. A total of 42,638 adolescents have been counselled and 36,504 were referred to hospital or other agencies for further management. Analysis from the Health Information Management System (HIMS) showed that the three commonest causes of hospital admission among boys aged 12-19 years were due to injury, poisoning and certain other consequences of external causes 29,335 (40.4 per cent), followed by infection and parasitic diseases 12,485 (17.2 per cent) and diseases of the digestive system 5396 (7.4 per cent). While among the girls aged 12-19 years the three commonest causes were due to pregnancy, childbirth and puerperium 32,268 (38.7 per cent), followed by injury, poisoning and certain other consequences of external causes 9,991 (12.0 per cent), and infection and parasitic diseases 8253 (9.9 per cent). Provision of comprehensive adolescent friendly health services are integrated in all government health clinics nationwide.

138. In strengthening the provision of adolescent friendly health services, MOH has developed various guidelines and modules in particular module on engaging the adolescents using HEADSS psychosocial framework and recently the guideline on managing SRH problems among adolescents for primary health care providers. These documents emphasize the importance of confidentiality, maintaining privacy, being non-judgemental as well as taking into consideration legal, ethical, rights, religious and social cultural perspectives. Regular trainings were conducted to equip health care providers with the necessary knowledge, attitude and skills in dealing effectively with the adolescents. With these interventions, in 2014, the total of 16,528 adolescents accessed were registered as new antenatal cases at government health facilities nationwide, of which 3,980 (24 per cent) were unmarried.

139. The Government, through the MOH and NPFDB, are focussing on the development of peer motivators/educators through the programme namely PROSTAR (Healthy for Youth Programme) and kafe@TEEN by NPFDB. These peer motivators/educators plan and implement suitable activities to influence other youths to practise healthy lifestyles and avoid behaviours that put them at risk of contracting STIs/HIV/AIDS and teenage pregnancy.

140. A school-based initiative introduced in 1996 between MOH and MOE is *Program Doktor Muda* (Young Doctor Programme) which aims to empower the primary school students on healthy lifestyle, mental health, sexual reproductive health and prevention of risky behaviour. Recently, in 2012 MOE has agreed to expand the *Program Doktor Muda* from primary school to secondary schools effective 2013.

141. Kafe@TEEN, a youth friendly centre, is an initiative by the Government to address adolescent reproductive health issues as well as other health related issues such as skin and acne problems, obesity, underweight and smoking.

142. In 2001, a national adolescent health policy was developed and subsequently the National Adolescent Health Plan of Action (NAHPOA) 2006-2020 was implemented as an advocacy tool towards interagency commitment. In 2008, a national technical committee on adolescent health was established by MOH with members from various agencies to monitor the NAHPOA. Subsequently the Ministry of Women, Family and Community initiated the National Policy on Reproductive Health and Social Education and its Plan of Action in November 2009 to further enhanced the access of adolescents to reproductive health education, information and services, stressing on positive values as well as responsible behaviours. There are two major milestones under the policy. Firstly, the integration of reproductive health and social education in the National Service Training curriculum in 2011 which benefits more than 100,000 school leavers each year. Secondly, in the same year, the Ministry of Education introduced reproductive health and social education (PEERS) in schools beginning with Year 1 students in primary schools. Among the contents in this module are sexual reproductive health, skills, knowledge and behaviour.

143. MOH continues to advocate for holistic intervention in addressing the issues of teenage pregnancy at various platforms and interagency meetings locally and internationally such as Social Committee Working Committee (SCWC) chaired by DG ICU, JPM; *Mesyuarat Jawatankuasa Teknikal Kesihatan Remaja Kebangsaan* chaired by DDG MOH; *Majlis Sosial and Mesyuarat Menteri Besar dan Ketua Menteri ke 122* chaired by Deputy Prime Minister, Durex SRH Forum, Radio Talk BFM 89.9, etc., at national/local level. At international level SRH issues were also presented at Asia Pacific Regional Conference on Child Abuse and Neglect (APCCAN) and Asian and Oceanic Congress of Obstetrics and Gynaecology (AOCOG) Conference. MOH also conducts regular trainings on Adolescent Health for capacity building of health-care providers at national, zone, and state and district level. A total of 3,357 HCPs have been trained in 2014.

## Article 13

### Social and economic benefits

144. The Government has taken and will continue to take appropriate measures to ensure that women and men enjoy the rights to family benefits, rights to bank loans, mortgages and other forms of financial credit. Both male and female employees benefit from the Employees Provident Fund (EPF) scheme which is under the EPF Act 1991 (Act 452).

**Special financial assistance for women**

145. The Small and Medium Enterprises Corporation inaugurated its Special Assistance Scheme for Women Entrepreneurs on 22 August 1999. This Scheme allows women entrepreneurs' greater access to financing.[11]

146. Sectors covered by the Scheme include manufacturing, manufacturing-related services, distribution trade, logistics, professional management services; IT related services, education services, software development, designing and packaging, R&D, marketing, tourism, and other business services.

147. Over the years, SME Corp. had discontinued some of the financial assistance schemes due to diminishing funds allocated. Due to the current needs, some of the schemes have also been reviewed in terms of coverage and eligible expenditures.

148. Besides giving opportunity for women entrepreneurs, these financial schemes are also made available for all. By and large, since its inception, the Special Assistance Scheme for Women Entrepreneurs has recorded 941 approvals amounting to RM89.2 million representing 5.4 per cent of the total approvals. The status of funds disbursed to women entrepreneurs as of 31 December 2011 is illustrated in Table 13.1.

149. The Malaysian Technology Development Corporation (MTDC) has also set-up a Technology Acquisition Fund for Women (TAF-W) that involves technology acquisition (i.e. design, blueprints, manufacturing know-how, technical support, patenting and intellectual property rights) and training programmes specifically designed towards skills-building of women entrepreneurs.[12]

**Financial outreach programme**

150. The Central Bank of Malaysia (Bank Negara Malaysia) has laid out a blueprint known as Financial Sector Master Plan (FSMP) that charts the development of the Malaysian Financial System over a ten-year period, commencing from 2001. Promoting financial literacy is an integral part of the overall agenda for financial and economic reform and development. A key component to the FSMP is the ten-year Consumer Education Programme for the banking and insurance sectors.

151. Financial literacy among women is to create sufficient awareness of financial matters to enable women to protect and prosper themselves and their families. As such, the Banking Info and Insurance Info were dedicated components of the planned outreach programme launched in 2003 which deployed various channels to disseminate information on retail financial products and services, and consumers'

[11] The objectives of this Scheme are to integrate more companies/enterprises owned and run by women into the mainstream of manufacturing through inter and intra industries linkage; to enhance the global competitiveness of companies, enterprises owned by women; and to upgrade the technological capabilities and technical skills and expertise of companies/enterprises owned and run by women.

[12] TAF-2 has been established with the following objectives: to promote the utilisation of technologies in the manufacturing and physical development of existing and new products or processes; to enhance the competitiveness level of women owned companies to compete globally; to increase wealth creation and technology content of women owned companies; and to upgrade and facilitate the expansion of existing women owned SME. Since its inception in 1999, TAF-2 has funded 67 projects with grants amounting to RM36.9 million.

rights and responsibilities with regard to such products and services. The programme has received an overwhelming response.

152. In addition, the Central Bank has introduced a Household Account Book to assist families in the areas of management of household income, savings and investments. This has been distributed among women, teachers and workers.

153. *Skim Pinjaman Ikhtiar* (SPI) is coordinated by *Amanah Ikhtiar Malaysia* (AIM) and funded by MOF.[13] SPI is a micro-credit scheme extended to low income groups in rural and urban areas to engage in income generating activities and micro enterprises. From 2000 until 2014, a total of 599,761 women have benefited from this scheme.

154. In terms of AIM's beneficiaries, women and women-headed households represent an important sub-group of micro-entrepreneurs especially among the rural hard core poor. To ensure women's access to micro-credit facilities, AIM designed the programmes as follows:

(a) Continuous loan is provided to members with a good track record in credit. The initial loan provided is in small amounts to ensure easy repayment, and it is sufficient for generating additional income. Subsequent loans of a larger amount will be provided to members to enable them to increase their income, thus to move them out of poverty;

(b) Lending scheme without collateral or guarantor;

(c) Lending procedures are simple, whereby the procedure can be easily understood by women thus enabling them to comply with the rules;

(d) The business takes place openly at the centre and also in villages. A weekly meeting is held regularly; and

(e) Paperwork is kept to the minimal. AIM's employees are required to read out and explain to their members (who are illiterate) the contents of the required materials.

155. In its 25 years of operation, AIM observed that women consistently register excellent loan repayment record with loan disbursements of more than RM3.7 billion (USD1 billion); the repayment rate is 99 per cent. A series of impact studies were undertaken to gauge the income level of the borrowers from the year 1989 to 2005. The study showed that the monthly household income of the borrowers has significantly increased over the poverty line income since 1990. The micro credit programmes has successfully assisted poor households, particularly women in improving their quality of life.

156. With the extension of small loans to poor rural women, they have managed to come out of poverty. Micro-credit is not only about giving loans but also provide an opportunity for women to realize their untapped skills and potentials, to acquire self-confidence and self-respect. They can also further improve their lives with appropriate legal, economic and social support from the Government and NGOs.

[13] AIM is a non-governmental organisation established to complement the national poverty eradication programmes by providing micro credit to the poor in the country. AIM received RM572,968,410 interest-free loans from the Government to be disbursed to the target group.

## Article 14

### Rural women

157. The Government recognizes that institutionalized enabling conditions would facilitate rural women (including indigenous women) to enjoy political, economic, social and cultural rights.

### Poverty eradication measures

158. The poverty eradication programme has always been a priority of the Government. In the 10th Malaysia Plan, the Government stated its commitment to reduce the incidence of poverty to 2.0 per cent by 2015. The poverty eradication programmes will continue to be more target-specific by addressing pockets of poverty, particularly in remote areas as well as among *Orang Asli* (aboriginal peoples in the Peninsula), *Bumiputeras* and the minorities.

### Rural poverty

159. As incidences of rural poverty decreased, efforts are now to be directed towards identifying the target group for specific anti-poverty programmes. The Government will draw-up a poverty map to identify areas with high concentration of poor households. This will be used to channel development programmes to target groups. The list of hard core poor is being updated and expanded to include all poor households in rural areas, including the *Orang Asli*.

### *Orang Asli* (aboriginal peoples of the Peninsula)

160. A comprehensive development plan was developed to overcome the high rate of poverty among the *Orang Asli* and improve their quality of life besides addressing extreme poverty among the *Orang Asli*. In addition, the Village Micro-Credit Scheme was also extended to the *Orang Asli* to enable them to undertake economic activities especially in agriculture and in small enterprise. Education programmes were also intensified for the *Orang Asli* community.

### *Bumiputera* minorities (Sabah and Sarawak)

161. As part of the target-specific programmes to eradicate poverty, income generating projects were extended to address issues of hard core and general poverty among the *Bumiputera* minorities of Sabah and Sarawak. The respective State Planning Units are consolidating efforts to eradicate poverty among the *Bumiputera* minorities. The involvement of Federal and State agencies as well as NGOs and the private sector in poverty eradication programmes has been enhanced.

### Economic development

162. The Government has made various efforts to improve the economic situation of rural women, particularly in Sabah and Sarawak by providing allocations for the development of rural women. In 2009, an allocation of RM2,684,540.10 was given to Sabah which benefited 150 women participants and RM2,149,085.65 for Sarawak which benefited 121 women participants. In 2010, an allocation of RM4,134,580

was provided to Sabah which benefited 459 women participants and RM1,753,606 for Sarawak which benefited 282 women participants.

163. Under MRRD, various women's groups including the following have been actively promoting the advancement of rural women:

(a) **Smallholders' Women's Group (PWPK) under RISDA**: As of December 2011, there were a total of 836 branches with a membership of 13,173 women. Most of them were involved in entrepreneurial projects (i.e. handicraft, food processing, sewing, etc.). In 2011, the groups managed to generate income amounting to RM3.29 million (USD1.1 million);

(b) **FELCRA Dynamic Women's Group (WADIRA)**: WADIRA programmes are implemented with the aim to create a group of women who are educated, progressive, high-income earners, considerate and grateful, disciplined and responsible, united with happy families, dynamic and independent. As of December 2011, there were 75 branches nationwide with a membership of 16,137 women who are actively involved in cottage industries/economic projects i.e. food processing, agriculture, sewing, handicraft, etc.; and

(c) **Mobilization Centre for *Orang Asli* Women**: Under the Department of Aboriginal Affairs (JHEOA), 33 groups have been established from 1999 to 2011 with 8 centres located in Johor, 7 in Pahang, 6 in Perak and 7 in Selangor, 3 in Negeri Sembilan and 2 in Kelantan.

**Access to information, communication and technology**

*Rural Internet Centre (RIC) initiatives*

164. RIC is a project implemented by the Government with the objective of bridging the digital divide between urban and rural communities. A total of 42 RICs were set up in all states throughout the country. Each RIC centre is managed by a supervisor with a committee appointed by the community. The committee comprises representatives from the post office, the agriculture and education sectors, women's associations, entrepreneurs' associations and NGOs.

165. Extensive ICT training programmes including special workshops for women were conducted at all RICs in early of 2004. Continuous training and awareness programmes were held targeting the elderly, housewives, youth, entrepreneurs, farmers and those involved in formal and informal teaching or education. The community also nominated their representatives to be members of the RIC Committee to co-manage the RICs.

166. The Ministry of Information, Communications and Culture (MICC) also organizes seminars and workshops from time to time to enable the supervisors and committee members to update their knowledge, skills as well as sharing their experiences. Each RIC is envisioned to be a one-stop centre for e-government (Government to Citizen or G2C and Government to Business or G2B) transacting, e-learning, information exchange, on-line examination centre, e-certification centre and a shared resource centre for applications development.

**Non-formal education and training**

167. Non-formal education and training is continuously provided by the Ministry of Agriculture and Agro-Based Industry (MAAI) as a commitment to ensure equitable access is be given to women in relation to education, work opportunities, training and financial assistance in the rural areas. Programmes offered by the Department of Community Development (KEMAS) are IT literacy, functional literacy, skills/vocational training, family well-being and community libraries. The program indicated participation of 98 per cent of rural women between the year 2006 and 2011.

**Economic empowerment of rural women**

168. The Government through MRRD has implemented the Rural Economy Financing Scheme (*Skim Pembiayaan Ekonomi Desa* or SPED). SPED is a soft loan scheme to help rural entrepreneurs to start a business or to enhance or upgrade their business. In 2011, 128 women entrepreneurs have benefited from this scheme that amounted to a total of RM8,221,084 (USD2,686,629).

169. The MRRD, with the cooperation of the State Government's and local/district authorities, provides business premises to rural entrepreneurs who cannot afford to own premises to operate their business. With this assistance, rural entrepreneurs would be able to operate their business in a proper, hygienic, systematic, conducive and environment-friendly business premises. From 2006 to 2011, 144 premises out of a total of 753 business premises were owned by women.

170. In order to improve the managerial skills among rural entrepreneurs, the MRRD provides advisory services and training that focused on upgrading and up-scaling of rural enterprises. Entrepreneurs who are progressive, resilient and competitive, including women and single mothers in the rural areas were also given guidance by the Ministry through the fostering programme. From 2006 to 2011, 12,095 women within the target group have participated in this programme.

171. The Ministry of International Trade and Industry (MITI) is responsible for developing new entrepreneurs by instilling and enhancing the entrepreneurial skills among the potential entrepreneurs. Towards this end, the Ministry is providing training and funding promotion activities, to create compatible and sustainable entrepreneurs. For example, through the National Institute of Entrepreneurial (*Institut Keusahawanan Negara* — INSKEN), MITI had developed a specific programme known as Women Entrepreneurship Training Programme benefiting various groups including single mothers to improve their lives. The programme is a combination of soft and hard skills trainings in collaboration with sources funded by TEKUN and the Council of Trust for the Indigenous People (MARA). From 2005 to 2011, INSKEN had trained 7,853 women through this particular programme to become entrepreneurs, while many more women were trained under other programme schemes.

172. Besides providing training, the Ministry of Entrepreneurial and Cooperation Development (MECD) was also committed in funding various business set up by women. The funding is provided through TEKUN Nasional. From 2006 to 2011 there were 71,251 (51.45 per cent) women entrepreneurs receiving an amount of RM620,235,200 (46.19 per cent) loans from TEKUN Nasional (Refer Table 14.2).

The functions and agencies under MECD were dissolved and set under 8 distinctive ministries during the recent cabinet reshuffle in 2009.

173. MARA was set up to assist *Bumiputera* to enhance their financial status and to help them to sustain economically and socially within the indigenous society. MARA offers equal opportunity for men and women as long as they fulfil the prerequisites. The number of entrepreneurs and loans disbursed by MARA as shown in Table 14.3.

174. The Cooperative Commission of Malaysia or formerly known as *Jabatan Pembangunan Koperasi* is a council responsible to materialize the third sector of the economic growth, i.e., cooperative to enhance the capabilities of men and women in managing their business.

## Article 15

**Equality before the law and in civil matters**

175. Malaysian women continued to have equal access to legal representation, equal rights to the administration of property, legal capacity and access to legal services. As mentioned in the previous report, women have the rights to own property, execute legal contracts and the freedom to movement, and choose their residence and domicile without any impediment.

176. The Government established the then Legal Aid Bureau in 1970 with primary objective to provide legal aid and advisory service to persons of limited means on legal issues commonly associated with them. The Legal Aid Bureau is now known as the Legal Aid Department. The functions of the Legal Aid Department are to give legal advice on all legal matters, to represent or provide legal assistance in proceedings in all courts in Malaysia within the jurisdiction as provided in the Second Schedule (criminal jurisdiction) and the Third Schedule (civil jurisdiction) of Legal Aid Act 1971, to provide mediation services and to promote legal awareness members of the public on their rights under the law. Meanwhile certain women's organizations also urged the Government to take action to provide assistance to women and their children in their maintenance claims against their husband and the children's guardian.[14]

177. The National Legal Aid Foundation (NLAF) was incorporated on 25 January 2011 as a result of a decision made by the Government on 3 March 2010. With the formation of the NLAF those who cannot afford legal fees will be provided legal assistance by the NLAF. The NLAF is governed by a Board of Directors chaired by the Attorney General. Its members include the Bar Council President, Secretary General of Treasury, a Dean of the Faculty of Law in public learning institution and two representatives from the non-governmental organizations to be appointed by the Minister. The legal aid and advice in criminal matters will be given to all Malaysian citizens at the stage of arrest, remand and bail application. The means test will only

[14] More information is available at www.jbg.gov.my.

be conducted for the purpose of determining who is eligible for legal representation at the trial stage.[15]

178. The Bar Council Legal Aid Centre (BCLAC) was founded by the Malaysian Bar Council with the purpose of providing citizens equal opportunity for the enforcements of their fundamental right to equality before the law. It is one of the organizations in Malaysia which provide free legal advice and representation and it has branches to represent each state in Malaysia. The BCLAC are actively involved in pro-bono work in the community, and conduct many programmes in cooperation with other organizations.[16]

**Establishment of reconciliation council (*Majlis Sulh*)**

179. The practice of *Sulh* in the Syariah Court in Malaysia has been recognized under the respective States' Syariah Court Civil Procedure Act/Enactments/Ordinances. For example, by virtue of section 99 of Syariah Court Civil Procedure (Federal Territories) Act 1998 [Act 585], the parties to any proceeding, may at any time hold *Sulh* to settle their dispute in accordance with such rules or in accordance with Islamic Law. *Sulh* means an agreement entered to resolve the conflict/disputes between parties who are Muslims. It is equivalent to mediation in the practice of civil law. In the words of Islamic Scholars, *Sulh* is defined as a binding agreement or contract with a compromise to achieve peace between two or more parties who disputed.

180. With regards to the procedures of *Majlis Sulh* (Council of *Sulh*), it is governed under the respective States' Syariah Court Civil Procedure (*Sulh*) Rules (for example, the Syariah Court Civil Procedure (*Sulh*) (Federal Territories) Rules 2004), Practice Directions by the Director General/Chief of Syarie Judge of the Department of Syariah Judiciary Malaysia (JKSM) and the *Sulh* Manual Procedure.

181. Apart from the Syariah court, the Legal Aid Department also provides the mediation service for their clients, which is governed by the Legal Aid (Mediation) Regulations 2006 [P.U. (A) 163/2006]. If the mediation process succeeds, the legal aid counsel would file the application to the Syariah court in order to get the agreement being recorded and endorsed by the court. On the other hand, if the parties failed to settle their disputes amicably, the legal aid counsel will file the case in the Syariah court for trial and by virtue of Practice Direction No. 1 of 2010, parties would be exempted from the *Majlis Sulh* conducted in the Syariah court.

**Mediation system**

182. On 1 August 2012, the Mediation Act 2012 [Act 749] entered into force. The enactment of Act 749 represents the Government's commitment to encourage mediation as a method of alternative dispute resolution, thereby clearing the backlog of civil cases. The preamble to the Act provides that it was promulgated to "promote and encourage mediation as a method of alternative dispute resolution". Its aim is to facilitate parties who are in dispute "to settle disputes in a fair, speedy and cost-effective manner".

[15] More information is available at www.ybgk.gov.my.
[16] More information is available at www.malaysianbar.org.my.

## Article 16

**Equality in marriage and family law**

183. The Government reiterates its commitment in upholding and implementing its current legal framework and policies pertaining to matrimony and family on the basis of equality and without distinction or discrimination between men and women in both its civil and Syariah systems. Notably, Malaysia maintains two parallel family legal systems, based on the English common law and Shari'a law respectively. The Government reiterates its position that its reservations on paragraphs (a), (c), (f) and (g) of article 16 (1) of the Convention fall within the ambit of Islamic Law or Shari'a (the divine law of Islam). There have been instances nonetheless where Shari'a matters are discussed at length on areas that are not prescribed in depth in the primary sources of Islamic Law. The concept of *siasah shar'iyyah* or public policy is used and has been used in marriage. In Shari'a, Muslim men are allowed to have four wives and the Shari'a's primary sources require the men to be just to all the wives. The Syariah Courts have been accorded the power to determine what would be deemed just for the wife and will consider collaborative evidence such as the man's occupation, earnings as well as seeking medical reports for cases of infertility.

184. The Government therefore has to maintain its reservations to paragraphs (a), (c), (f) and (g) of article 16 (1) and understands that the principle of "equality" as expounded in the said articles has to be considered within the realm of the Shari'a which guarantees to a spouse complementary rights and responsibilities in order to preserve the sacred bond of matrimony.

185. The Government is committed to achieve gender equality and equity in the breadth of laws that impact women such as personal rights, rights and responsibilities pertaining to marriage, guardianship, wardship, trusteeship and adoption of children, inheritance and property. The Government consistently promotes and uphold the rights of Muslim women, as sanctioned by Shari'a. This has been proven with the continuing efforts taken by the Government in reviewing and amending the provisions of laws such as Islamic Family Law Act, Rules and Regulations and Practice Directions of Syariah courts. The Islamic Family Law (Federal Territories) (Amendment) Act 2006 [Act A1261] is an Act to amend the Islamic Family Law (Federal Territories) Act 1984 [Act 303]. It has been gazetted on 2 February 2006 and come into force on 1 November 2010; vide P.U. (B) 477/2010. Generally, the purpose of the amendment is to protect and safeguard the rights of women and the welfare and the best interest of the child.

186. Among the amendments which are relevant to the subject of equality in marriage and family law are as follows:

(a) Section 23 of the Act 303 is amended by section 6 Act A1261 that imposes a condition for the man who wishes to contract another marriage to obtain the court's written permission prior to the marriage. In addition, the new provision provides that the court shall have the power on the application by any party to the marriage to require a person to pay maintenance to his existing wife or wives. Furthermore, the amendment would allow the Syariah court to order for the division of assets acquired by the husband during the marriage by their joint efforts or sole

efforts of the husband, as the husband were to practise a polygamous marriage. This has proven an advantage for a women since prior to this amendment the application for the division of assets acquired during the marriage could only be made after the dissolution of a marriage or after the death of the husband or the wife. The application could also be made even the polygamou· marriage was solemnize contrary to the provision of law; and

(b) Section 73 of the Act 303 is amended by section 16 of the Act A1261 by inserting the new paragraph (e), which obligates a man to pay maintenance for the benefit of any child of his in the event that he enters into another marriage.